

RON WYDEN
OREGON

United States Senate

WASHINGTON, DC 20510-3703

September 9, 2008



The Honorable Samuel W. Bodman
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Secretary Bodman,

On June 3, 2008 and July 30, 2008 respectively, your Department issued and affirmed an order pursuant to Section 3 of the Natural Gas Act that will allow two major integrated oil companies – ConocoPhillips and Marathon Oil – to export 98.1 billion cubic feet of Alaskan natural gas to Japan and other Pacific Rim countries. This order, which will allow the export of as much natural gas as is used by 1.4 million American families in a year, comes at a time when the President had demanded that the moratoria on oil and gas drilling along our environmentally-sensitive coastal areas be lifted and Americans are being warned that their winter heating bills are going to be dramatically higher. The Administration is trying to have it both ways – arguing that we need to drill everywhere because we don't have adequate energy supplies, while finding that we have so much energy that big oil companies can export it overseas and keep prices here at home higher than they would otherwise be. On its face, the order that Department has issued to allow the continued export of Alaskan natural gas does not meet the public interest test required by the Natural Gas Act and I respectfully request that you review and revoke it.

As you know, the United States has been exporting natural gas from Alaska to Japan since 1969. Historically, these exports were deemed in the public interest because there were no pipelines to the lower-48 states and no West Coast LNG terminals to bring this gas to market. Indeed, even in this most recent order, which would allow ConocoPhillips and Marathon to continue to export Alaskan natural gas when their current long-term authorization expires next April, the Department dismissed the possibility of supplying this gas to the lower-48 and only considered the local need for this natural gas within Alaska in its determination that the proposed export met the statute's public interest test.

What the Department should have fully considered, but did not, was the need for this natural gas in the lower-48 and the fact that the capability to import LNG to the West Coast has been commercially available as of May 15, 2008 – the date Sempra LNG, a subsidiary of Sempra Energy, announced that its Energía Costa Azul LNG terminal in Baja California was ready for commercial operation. In fact, the Department appears to have relied upon inaccurate and out of date information submitted by ConocoPhillips and Marathon on this point. For example, the Department's June 3rd order cites arguments by these companies that, "(w)ith respect to national need, CPANGC [ConocoPhillips Alaska Natural Gas Corporation] and Marathon state shipment of LNG from the Applicants'

Kenai LNG facilities to the lower 48 states does not appear to be a viable option due to certain regulatory and economic hurdles.”

The hurdles cited by the companies, according to the Department, are the Jones Act which restricts shipments between U.S. ports to U.S. flagged vessels, the argument “that there are no existing U.S. west coast LNG receiving terminals,” and the cost of shipping LNG to the East and Gulf coasts would be prohibitive. The Costa Azul facility was specifically designed to provide natural gas to U.S. markets, as well as Mexican customers. It is connected by a cross-border pipeline system capable of delivering natural gas to the U.S. market today, and that system is being expanded to provide even more capability. Under the North American Free Trade Agreement, there are no additional duties or tariffs on natural gas trade between the two countries. And because your Department already approves all exports and imports of natural gas between the U.S. and Mexico, it (and you) should be well aware of these capabilities. Since the facility is located in Mexico, the Jones Act does not apply.

Coming as it does, at a time when the Energy Information Administration (EIA), an agency within your own Department, is projecting that American consumers will be facing these high natural gas prices, it is inconceivable that the Department would accept, and apparently base its own decision upon, such flawed and out of date information. As described by the EIA in its most recent Short-Term Energy Outlook, Americans are facing dramatically higher natural gas costs this year, and especially this winter. According to EIA, the average price of natural gas consumers are expected to pay this winter will increase by more than 22% nationwide, and by more than 24% in the Western U.S. where the Alaskan gas would add to supply. EIA projects that natural gas prices will continue to remain high in future years with the spot price in 2009 averaging 25% more than 2007.

To add insult to injury, as argued by the Chugach Electric Association, the largest electric utility in Alaska and which uses natural gas to generate electricity, the Department’s order did not even adequately address the need for gas within Alaska. Indeed, the Department rejected the pleas from Chugach to condition the export of Alaskan gas on assurances that Alaska’s own need for natural gas was met.

In short, it is hard to see how the Department concluded that the proposed export of Alaskan natural gas met the required public interest test with regard to either Alaskan or lower-48 energy needs. For the Department to categorically reject an opportunity to provide additional supplies of energy to American consumers, both in Alaska and on the West Coast, at a time of record energy prices and instead let these companies send that energy to overseas markets, demands a Secretarial-level review.

Finally, I am also concerned about the fact that at least two U.S.-based LNG companies – Cheniere Marketing, Inc. and Freeport LNG Development, L.P.-- have also applied to the Department for LNG export authority. Neither of these companies produces LNG. Rather they propose to re-export LNG already received, or expected to be received, at their U.S. LNG terminals. In Cheniere’s case, the company is applying for permission to re-export up to 64 billion cubic feet of LNG over the next two years and 24 billion cubic

feet for Freeport -- both from LNG terminals on the Gulf Coast. If America is really so short of energy that we need to drill in national wildlife refuges and other sensitive areas, why should energy supplies, sitting in U.S. terminals --roughly equivalent to what an additional 1.1 million families would use in a year -- be sent back out of the country simply because these energy companies can get a higher price from a foreign buyer? In light of the Department's questionable interpretation of the Natural Gas Act public interest standard in the case of ConocoPhillips and Marathon, I would like to know how the Department intends to apply that statutory standard in the two re-export applications filed by Cheniere and Freeport. I would also like to know what action you are going to take to ensure that unlike the Alaskan natural gas export proceeding, these cases are decided on complete and accurate information.

Because Congress may soon consider legislation affecting US energy supplies, I request that you respond to my letter by September 15.

I also request that you please file a copy of this letter in the three administrative dockets referenced above (ConocoPhillips Alaska Natural Gas Corporation and Marathon Oil Company, FE Docket No. 07-02-LNG; Cheniere Marketing, Inc., FE Docket No. 08-77-LNG; and Freeport LNG Development, L.P. 08-70-LNG). Copies of this letter are also being provided to the appropriate representatives of the parties in those respective proceedings.

Sincerely,

A handwritten signature in black ink that reads "Ron Wyden". The signature is written in a cursive, flowing style.

Ron Wyden
United States Senator